

SB522

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Enrolled
Committee Substitute
for
Committee Substitute
for
Senate Bill 522

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

2023 MAR 29 P 1:20

FILED

BY SENATORS TARR AND WOODRUM

[Passed March 11, 2023; in effect 90 days from
passage (June 9, 2023)]

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1 AN ACT to amend and reenact §11-22-2 of the Code of West Virginia, 1931, as amended, relating
2 to excise taxes on transfers of title to real estate; requiring a certain percentage of certain
3 excise taxes be allocated to the county in which it was collected; providing for distribution
4 of funds from certain excise taxes allocated to the county in which it was received;
5 authorizing the Secretary of State to propose legislative rules establishing standards for
6 election administration, infrastructure, and security; and providing for allocation of funds
7 when certain minimum standards or reserve amounts are met.

Be it enacted by the Legislature of West Virginia:

ARTICLE 22. EXCISE TAX ON PRIVILEGE OF TRANSFERRING REAL PROPERTY.

**§11-22-2. Rate of tax; when and by whom payable; additional county tax; county clerk
funding for election administration, infrastructure, and security, and other county
clerk purposes.**

1 (a) Every person who delivers, accepts, or presents for recording any document, or in
2 whose behalf any document is delivered, accepted, or presented for recording, is subject to pay
3 for, and in respect to the transaction or any part thereof, an excise tax upon the privilege of
4 transferring title to real estate at the rate of \$1.10 for each \$500 value or fraction thereof as
5 represented by the document as defined in §11-22-1 of this code: *Provided*, That beginning July
6 1, 2021, ten percent of each excise tax collected pursuant to the provisions of this subsection
7 shall be retained by the county wherein the tax was collected to be used for county purposes:
8 *Provided, however*, That beginning July 1, 2022, 20 percent of each excise tax collected pursuant
9 to the provisions of this section shall be retained by the county wherein the tax was collected to
10 be used for county purposes: *Provided further*, That beginning July 1, 2023, thirty percent of each
11 excise tax collected pursuant to the provisions of this section shall be retained by the county
12 wherein the tax was collected to be used as provided in subsection (c) of this section: *And*
13 *provided further*, That beginning July 1, 2024, 65 percent of each excise tax collected pursuant to
14 the provisions of this section shall be retained by the county wherein the tax was collected to be

15 used as provided in subsection (c) of this section: *And provided further*, That beginning July 1,
16 2025, the excise tax collected pursuant to this subsection shall be a county excise tax retained
17 by the county wherein the tax was collected and to be used by the county as provided in
18 subsection (c) of this section. The excise tax collected pursuant to this subsection is payable at
19 the time of delivery, acceptance, or presenting for recording of the document. In addition to the
20 excise tax described in this subsection, there is assessed a fee of \$20 upon the privilege of
21 transferring real estate for consideration. The clerk of the county commission shall collect the
22 additional \$20 fee before recording a transfer of title to real estate and shall deposit the moneys
23 from the additional fees into the Affordable Housing Fund as provided in §31-18-20d of this code.
24 The moneys collected from this additional fee shall be segregated from other funds of the West
25 Virginia Housing Development Fund and shall be accounted for separately. None of these
26 moneys may be expended by the West Virginia Housing Development Fund to defray
27 administrative and operating costs and expenses actually incurred by the West Virginia Housing
28 Development Fund. The West Virginia Housing Development Fund shall publish monthly on its
29 Internet site an accounting of all revenue deposited into the fund during the month and a full
30 disclosure of all expenditures from the fund including any person or entity receiving funds, its
31 location, and any contractor awarded a construction contract.

32 (b) Effective January 1, 1968, and thereafter, there is imposed an additional county excise
33 tax for the privilege of transferring title to real estate at the rate of 55 cents for each \$500 value
34 or fraction thereof as represented by such document as defined in §11-22-1 of this code, which
35 county tax shall be payable at the time of delivery, acceptance, or presenting for recording of such
36 document: *Provided*, That after July 1, 1989, the county may increase said excise tax to an
37 amount equal to the state excise tax. The additional tax hereby imposed is declared to be a county
38 tax and to be used for county purposes: *Provided, however*, That after July 1, 2017, the county
39 may increase the excise tax to an amount not to exceed \$1.65 for each \$500 value, or fraction
40 thereof, as represented by a document, as defined in §11-22-1 of this code: *Provided further*, That

41 only one such state tax and one such county tax shall be paid on any one document and shall be
42 collected in the county where the document is first admitted to record and the tax shall be paid by
43 the grantor therein unless the grantee accepts the document without such tax having been paid,
44 in which event such tax shall be paid by the grantee: *And provided further*, That on any transfer
45 of real property from a trustee or a county clerk transferring real estate sold for taxes, such tax
46 shall be paid by the grantee. The county excise tax imposed under this section may not be
47 increased in any county unless the increase is approved by a majority vote of the members of the
48 county commission of such county. Any county commission intending to increase the excise tax
49 imposed in its county shall publish a notice of its intention to increase such tax not less than 30
50 days nor more than 60 days prior to the meeting at which such increase will be considered, such
51 notice to be published as a Class I legal advertisement in compliance with the provisions of §59-
52 3-1 *et seq.* of this code and the publication area shall be the county in which such county
53 commission is located.

54 (c)(1) Beginning July 1, 2023, and ending June 30, 2024, the excise tax retained by the
55 county wherein the tax was collected, pursuant to subsection (a) of this section, shall be used by
56 the county and deposited as follows:

57 (A) Twenty percent of the moneys received shall be deposited into the county general fund
58 to be used for county purposes;

59 (B) Five percent of the moneys received shall be deposited into a separate account and
60 allocated for use by the clerk of the county commission in improving election administration,
61 infrastructure, and security, in accordance with the standards established by the Secretary of
62 State as provided in subdivision (4) of this subsection; and

63 (C) Five percent of the moneys received shall be deposited into a separate account for
64 use by the clerk of the county commission for other purposes including, but not limited to,
65 establishing, maintaining, and securing infrastructure to comply with the Uniform Real Property
66 Electronic Recording Act, §39A-4-1 *et seq.* of this code.

67 (2) Beginning July 1, 2024, and ending June 30, 2025, the excise tax retained by the
68 county wherein the tax was collected, pursuant to subsection (a) of this section, shall be used by
69 the county and deposited as follows:

70 (A) Thirty percent of the moneys received shall be deposited into the county general fund
71 to be used for county purposes;

72 (B) Seventeen and one-half percent of the moneys received shall be deposited into a
73 separate account and allocated for use by the clerk of the county commission in improving election
74 administration, infrastructure, and security, in accordance with the standards established by the
75 Secretary of State as provided in subdivision (4) of this subsection; and

76 (C) Seventeen and one-half percent of the moneys received shall be deposited into a
77 separate account for use by the clerk of the county commission for other purposes including, but
78 not limited to, establishing, maintaining, and securing infrastructure to comply with the Uniform
79 Real Property Electronic Recording Act, §39A-4-1 *et seq.* of this code.

80 (3) Beginning July 1, 2025, the excise tax retained by the county wherein the tax was
81 collected, pursuant to subsection (a) of this section, shall be used by the county and deposited
82 as follows:

83 (A) Ninety percent of the moneys received shall be deposited into the county general fund
84 to be used for county purposes;

85 (B) Five percent of the moneys received shall be deposited into a separate account and
86 allocated for use by the clerk of the county commission in improving election administration,
87 infrastructure, and security, in accordance with the standards established by the Secretary of
88 State as provided in subdivision (4) of this subsection; and

89 (C) Five percent of the moneys received shall be deposited into a separate account for
90 use by the clerk of the county commission for other purposes including, but not limited to,
91 establishing, maintaining, and securing infrastructure to comply with the Uniform Real Property
92 Electronic Recording Act, §39A-4-1 *et seq.* of this code.

93 (4) The Secretary of State propose rules for legislative approval in accordance with the
94 provisions of §29A-3-1 *et seq.* of this code to establish minimum standards for election
95 administration, infrastructure, and security, which rules shall include, but not be limited to,
96 standards regarding cyber and physical security, and a minimum reserve funding requirement for
97 each county from funds transferred to the separate fund required by this subsection for election
98 administration, infrastructure, and security: *Provided*, That the minimum reserve funding
99 requirement may not exceed the cost of upgrading voting equipment at the statewide average
100 price to upgrade a voting system by precinct. Upon a determination by the Secretary of State that
101 a county has satisfied the minimum reserve funding requirement and standards, the moneys in
102 excess of the minimum reserve funding requirement may be transferred to the county's general
103 fund at the county commission's direction.

104 (5) Any moneys that are deposited into two separate funds for use in improving election
105 administration, infrastructure, and security, and other purposes relating to the office of the clerk
106 of the county commission, shall be in addition to and separate from typical county budget
107 allocations and shall not be supplanted by a budget reduction to the clerk of the county
108 commission's office: *Provided*, That reasonable budget reductions are permitted if made in the
109 ordinary course for reasons other than offsetting the additional funding as provided in this section.

The Clerk of the Senate and the Clerk of the House of Delegates hereby certify that the foregoing bill is correctly enrolled.

Joe Lamm
.....
Clerk of the Senate

Steve Morris
.....
Clerk of the House of Delegates

FILED
2023 MAR 29 P 1:20
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Originated in the Senate.

In effect 90 days from passage.

Cyril
.....
President of the Senate

Ken Hunter
.....
Speaker of the House of Delegates

The within is *approved* this the *29th*
Day of *March* 2023.

James Justice
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 17 2023

Time 2:54 pm